Fensterwald, the Constitutional issue and the Ray case HW 8/1/75

Yesterday Bud told Jim Lesar that he believes the violation of Ray's constitutional rights ought be enough to get the Ray decision overturned. Jim said it quietly but he knew what it typifies and what it means if I did no more than chuckle.

Bud was off in Europe on vacation when Jim and I did discovery and prepared the case. We got supersensational proofs on discovery of irremedial Constitutional violations. Although quite exhausted by the demands of the discovery and that work I kept working quite hard and had two cases put together for Bud by the time he got off vacation. (Not just one a year with him.)

One had to do with the evidence. The other was a broad approach to the issues I described as irremedial violations of Ray's rights. I said and believed and still believe that what I had was enough to get the case dismissed then and there. Because Bud is always opposed to whatever I propose I had his partner with him. Bill saw it immediately and prepared the draft of the motion Bud was to have offered as soon as we got to Memphis. He was also to ask for all surveillance of any kind on all of the defense team. (I had copies of some of CIA's on him and me but didn t tell him I had any on him.) I have ample reason to believe tere was this surveillance. I was also sure the State was the beneficiary of this surveillance.

A second motion was on what we had and what we could safely allege on the violation of Ray's legal rights. Jim and I had copies of incerceptions of all kinds of communications with each and every prior lawyer and the judge, from the prosecutor's files. Even stolen copies of Ray's papers for his defense. This is much worse than what got the Ellsberg case thrown out, as Bill immediately agreed.

So, we got there and without discussing it with anyone Bud simply chickened out. He filed nothing. My reminders did no good.

Jim picked some of it up in his arguments. Maybe enough to carry further in this appeal. He'll make the effort.

But we could have filed those motions, gotten a decision and halted all else until they were acted on however high they went.

Aside from what this means in the case itself it means that I'd have been able to edit the WG book in less time than the work on the case from that point on took.

And so many other things !

Jim could have filed someof the suits to collect money due me.

We really should have won on the merits on that/those issue(s) and that approach saved every still-official important face in Memphis and the State.

There isn't much on which Bud hasn't been this way.

Not only in the Ray case.